

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
CENTRAL ISLIP DIVISION

-----X
IN RE:

Chapter 11

WINDWARD LONG, LLC

Case No.: 8-20-72041-REG

Debtor,
-----X

**AFFIRMATION IN SUPPORT OF MOTION FOR AN ORDER TO DISMISS
PURSUANT TO BANKRUPTCY CODE §§ 105(a) AND 1112(b)**

Seth D. Weinberg, Esq. the undersigned, an attorney duly admitted to practice before this Court, affirms under penalty of perjury as follows:

1. I am an attorney with Hasbani & Light, P.C., attorneys for the debtor Windward Long, LLC (the “Movant” or “Windward Long” or “Debtor”), and as such I am fully familiar with the facts and circumstances of this case.

2. I make this Affirmation in Support of the Debtor’s motion for an Order dismissing this case pursuant to Bankruptcy Code §§ 105(a) and 1112(a).

BACKGROUND

3. On May 12, 2020, Windward Long filed a voluntary petition under Chapter 11, Subchapter V of the Bankruptcy Code and schedules and supplements. *See* ECF Dkt. No.: 1.

4. On May 15, 2020, Gerard R. Luckman was appointed Sub Chapter V Trustee (the “Sub V Trustee”). *See* ECF Dkt. No.: 2.

5. On June 6, 2020, Windward Long a Motion to Set the Last Day to File Proofs of Claim, a Motion to Set the Property Value, a Motion for Authority to Obtain Credit and an Application to be Appointed as Counsel. *See* ECF Dkt. Nos.: 14 – 17.

6. On July 20, 2020, the Sub V Trustee filed a Reply Statement of Concerns Regarding Debtor's Motions. *See* ECF Dkt. No.: 21. The U.S. Trustee then filed its own objections of July 22, 2020. *See* ECF Dkt. No.: 23.

7. On August 14, 2020, Robyn E. Goldstein filed a notice of appearance on behalf of secured creditor Bank of America, N.A. ("BANA") *See* ECF Dkt. No.: 31.

8. On, August 24, 2020, the undersigned filed a letter expressing Debtor's intention to dismiss the underlying bankruptcy matter. *See* ECF Dkt. No.: 32.

RELIEF REQUESTED

9. By this Motion, the Debtor requests entry of the Order, substantially in the form annexed hereto as **Exhibit A**, pursuant to sections 105(a) and 1112(b) of the Bankruptcy Code and Bankruptcy Rule 1017(a), dismissing the Chapter 11 Case and granting such other and further relief as requested herein or as the Court otherwise deems necessary or appropriate. Both the U.S. Trustee and the Sub V Trustee have advised Debtor's counsel that it does not oppose the relief requested herein.

BASIS FOR RELIEF

10. The instant bankruptcy matter should be dismissed because the parties have consented to dismissal. An adjudication should be vacated and a petition withdraw when all parties consent. *See In re Rose*, 86 B.R. 439, 442 (Bankr. E.D. Pa. 1988) *quoting In re Riordan*, 95 F.2d 454 (7th Cir. 1938).

11. Here, the U.S. Trustee and the Sub V Trustee consented the dismissal of the instant bankruptcy prior to the submission of this motion. Debtor has come to an agreement with the Sub V Trustee to compensate him for his time expended. Additionally, counsel for Bank of America,

the sole creditor, has not imposed opposition to this motion, nor has it filed any documentation in this action other than its Notice of Appearance. *See* ECF Dkt. No.: 31.

NO FURTHER REQUEST

12. No prior motion for the relief requested herein has been made to this or any other court.

NOTICE

13. Notice of this Motion has been provided to: (a) the Office of the U.S. Trustee; (b) the Office of the Sub V Trustee and all creditors (including the Petitioning Creditors).

CONCLUSION

14. For the foregoing reasons, the Debtor respectfully requests that the Court enter the Proposed Order substantially in the form attached to this Motion as **Exhibit A** and grant any additional relief the Court deems appropriate.

WHEREFORE, it is respectfully requested that this Court enter an Order i) dismissing this Bankruptcy pursuant to Bankruptcy Code §§ 105(a) or 1112(a) and ii) for any additional relief that this Court deems appropriate.

Dated: New York, New York
September 1, 2020

HASBANI & LIGHT, P.C.

/s/ Seth D. Weinberg
Seth D. Weinberg, Esq.
450 Seventh Avenue, Suite 1408
New York, New York 10123
Telephone: (212) 643-6677
Email: sweinberg@hasbanilight.com
Counsel for Debtor